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TZUMI ELECTRONICS LLC

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

TZUMI ELECTRONICS, LLC,

Plaintiff,

vs.

THE BURLINGTON INSURANCE
COMPANY,

Defendant.

Civil Action No.: 1:22-cv-10307-JMF

**TZUMI ELECTRONICS, LLC’S NOTICE
OF MOTION FOR PARTIAL SUMMARY
JUDGMENT**

Pursuant to Local Rule 7.1(a)(1), NOTICE IS HEREBY GIVEN that Plaintiff Tzumi Electronics, LLC (“Tzumi”) will and hereby does move the Court for partial summary judgment pursuant to Fed. R. Civ. P. 56 establishing that Defendant The Burlington Insurance Company (“Burlington”), which issued a primary commercial general liability policy to Tzumi, policy number 895BW60982 for the period December 19, 2020 to December 19, 2021 providing coverage for Personal and Advertising Injury liability.

Tzumi seeks in its motion (1) a declaratory judgment determining that Burlington has a duty to defend Tzumi in the underlying case *Therabody, Inc. v. Tzumi Electronics LLC*, Case No. 1:21-cv-07803-PGG-RWL pending in the United States District Court of the Southern District of New York (the “Therabody Action”); (2) a ruling that Burlington breached its contractual obligations by failing to defend Tzumi; and (3) Burlington owes damages including defense fees incurred in the Therabody Action, plus prejudgment interest.

This motion is based on this notice of motion, the attached memorandum of points and authorities, statement of undisputed facts, declarations, exhibits, all pleadings and papers on file in this action, and upon such other matters as may be presented to the court at the time of hearing.

Dated: January 24, 2022

GAUNTLETT & ASSOCIATES

By: /s/ James A. Lowe

David A. Gauntlett
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Attorneys for Plaintiff
TZUMI ELECTRONICS LLC

STATEMENT IN LIEU OF CERTIFICATE OF SERVICE

This document will be served via the Court’s CM/ECF system, thus filing counsel is unable to certify at this time that service has occurred. Should the CM/ECF e-file notice report any failures in electronic service, counsel will serve this document by another means and will file a supplemental Certificate of Service.